## REMARKS

Claim 1 has been amended to recite that the refractory particles are disposed only within the plurality of yarn fibers of the inner fabric layer, and that, due to the raising process, a substantial portion of the particles of the refractory compound are spaced from the surface of the skin, to cause body heat reflected by the particles to travel through the trapped air space of the raised surface region for insulated warming of the wearer's skin. Support for these amendments is found implicitly throughout Applicant's specification. The artisan, reading Applicants' specification, would understand that the refractory particles are uniformly distributed throughout the fibers by weight. A plot by weight would then show a substantial portion, in fact, a vast majority, of the particles being spaced from contact with the skin, especially in the outer region of the raised fiber tips. The radiation reflected from the particles of refractory compound, which are embedded in the yarn fibers of the inner fabric layer at positions spaced from the raised surface region at the wearer's skin, passes through and warms the intervening air region.

Claims 1-8 and 10-32 stand rejected under 35 USC 103(a) as being unpatentable over the combination of Lumb in view of Fujiwara and Toshio. Applicants respectfully submit that the amendment herein overcomes this rejection. The art of record does not teach or suggest a structure as now claimed. Lumb teaches a fabric having an inner fabric layer and an outer fabric layer, both of which are raised, with no refractory particles. As previously discussed, the fabric in Fujiwara is a very thin stocking fabric where the entire fabric body is in contact with the skin. (See Applicants' Appeal Brief mailed June 25, 2004, p. 3, second full paragraph.) Toshio discloses fabrics in which the refractory particles are disposed, by spraying the surface of the raised fabric, in the "hair tip parts" of the fibers, and states that the fabric should be worn so that the fiber tips come in contact with the body. (See Applicants' Supplemental Appeal Brief mailed January 24, 2005, passage bridging pages 3 and 4.) Nothing in the art of record that would have led the artisan to modify the fabric disclosed by Lumb to include particles of refractory compound embedded in the yarn fibers of the inner fabric layer only, at positions spaced from the raised surface region at the wearer's skin.

In the opinion dated August 25, 2006, the BPAI stated their opinion that "given the combined disclosures of the applied references, one of ordinary skill in the art would have been led to locate refractory particles in either layer of the fabric of Lumb, and especially in the raised (inner) layer." Assuming, arguendo, that this is true, nonetheless the artisan would not have been led by the art of record to dispose the particles only within the plurality of yarn fibers of the inner fabric layer, and in such a manner that, due to the raising process, a substantial portion of the particles of the refractory compound are spaced from the surface of the skin, to cause body heat reflected by the particles to travel through the trapped air space of the raised surface region for insulated warming of the wearer's skin, warming this intervening air region when the fabric is worn, as now claimed. Using Lumb as the starting point, none of the references suggests limiting refractory particles to the inner fabric layer only, with a substantial portion of the particle spaced from the skin surface. Instead, in view of the teachings of Toshio, the artisan would have placed the refractory particles in the hair tips of the fibers, where they would be able to contact the wearer's skin.

Applicant respectfully requests that the rejection under 35 USC 103(a) be withdrawn.

It is believed that no fees are due with this submission. Please apply any charges or credits to deposit account 06-1050, referencing Attorney Docket No. 10638-037001.

Respectfully submitted,

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/Celia H. Leber/
Celia H. Leber
Reg. No. 33,524

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906